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#### MODEL POLICY for Schools

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#### MANAGING STAFF SICKNESS ABSENCE

2021

Review: June 2022

### Introduction

### This whole school policy acknowledges that a certain level of staff absence due to sickness is unavoidable. However, it also acknowledges the impact of staff absence on the running of a school, on work colleagues and on the service the school provides to the children. The school governing body expects all its employees to provide effective and reliable service. The school is committed to ensuring that employees suffering from ill health, including mental and physical illness and disability, are treated with understanding and sensitivity. The policy sets out the responsibilities of the headteacher, the governing body and employees. For example, with regard to employees it says that employees should:

* Make every effort to achieve full attendance
* Commit to achieving acceptable attendance levels, should these fall below the standards expected
* Comply with the sickness policy and associated procedure and attend any meetings/hearings convened in accordance with the policy

The details of how to report absences in individual schools, including who the employee should contact are not covered in this policy. For further information please refer to your school’s local policy or staff handbook, or speak with the School Business Manager. The school’s local policy may provide details of :

* when the employee needs to get a [fit note](https://beta.acas.org.uk/absence-from-work/fit-notes-and-keeping-in-touch) from a doctor
* when return to work discussions will be held and with whom
* how and when to keep in touch
* whether the school has access to an employee assistance programme (EAP)

### 1. Responsibilities of Employees

Employees must make every effort to achieve full attendance and not use sick leave unless they are medically unfit to attend work or remain at work.

Employees must follow the school’s arrangements for reporting sickness as all absence has an impact on colleagues, children and the operation of the school day and urgent cover arrangements may be needed. Minimum requirements are:

* employees must act in accordance with the local arrangements that are in place at the school and must contact the school’s named contact/s as soon as possible (and certainly at least one hour before normal start time) to report sickness, giving a clear indication of the nature of the illness and an estimate of the likely return to work date.
* employees should provide medical certificates to the school promptly – either:

completing a self- certificate on return to work for **any** period of absence of up to 6 days, and/or provide a Statement of Fitness for Work from a GP for any period of sickness absence lasting 7 days or more.

* employees should maintain a reasonable level of contact with the relevant manager/Headteacher to indicate progress and likely return to work date
* employees should attend a medical examination with the school’s Occupational Health provider if required
* employees should meet with the Headteacher, (or designated manager) on return from any period of sick leave, for a return to work discussion to discuss the reasons forabsence.

A return to work discussion/meeting is common at the end of a period of absence, even for an absence of one day. Discussions will be informal and brief and should be held as soon as possible following the period of absence. It is generally intended to:

* welcome an employee back
* check the employee is well enough to be at work
* discuss the reason for the absence
* update the employee on anything that has happened at work while they have been absent.

If an employee has been absent from work often, a return to work discussion can be an opportunity to discuss any underlying problems causing this. For example, if they are having any problems at work or home.

### 2. Rights of Employees

* to have access to medical information and receive copies of Occupational Health reports when required.
* to have trade union representation or work colleague representation at all formal stages of the procedure.
* to be advised as specified in the procedure of the implications of unsatisfactory attendance and to be given an opportunity to improve through the setting of clearly established targets and timescales.
* to receive a copy of the procedure.
* to have cases treated in a confidential manner.
* to expect support in the management of ill-health as far as practicable
* for national and local conditions of service to be applied.

### 3. Responsibilities of Headteacher

* to regularly review (or delegate as appropriate) the level of sickness absence of employees in the school and report the overall levels of staff attendance to Governors as appropriate.
* to meet with staff on return from sick leave for a return to work discussion to discuss the reasons for absence.
* to maintain regular contact with staff on long-term sick leave, undertaking regular reviews and advising when it is considered the employee’s job is at risk and it cannot be kept open for much longer.
* to give written notice of all review meetings and hearings and to confirm any decisions within 5 working days setting out the reasons for the decision and any targets which have been set including right of appeal.
* to support staff as far as is practicable in improving attendance
* to deal fairly but firmly with an employee whose level of sickness absence is unsatisfactory.

### 4. Rights of Headteachers

* to determine that the level of sickness absence is unsatisfactory and needs to improve and to set targets.
* to refer an employee to the school’s occupational health provider for a medical assessment
* to review levels of staff attendance and absence
* to initiate procedures for considering termination of service where the level of sickness absence is no longer acceptable.
* to investigate under the disciplinary procedure where provisions in relation to sick leave are being abused.

### Managing Sickness Absence Procedure

**1. Introduction**

1.1 In managing staff attendance, a balance must be maintained between the need for the school to run effectively to deliver for the children and parents and the need for the employee to have time to recover. Consideration will be given to any support that can be given to enable the employee to return to work.

1.2 The procedure sets out a framework to enable schools to respond to the issues arising from sickness absence which may be:

1. intermittent short-term absence, or
2. continuous long-term absence

1.3 **Intermittent Absence:** This covers short-term absences due to a variety of minor, unlinked medical causes. It may also cover absences due to one (or more) underlying medical causes. The approach is that the individual circumstances of each case will be considered with regard to the setting of targets/monitoring periods. However, the Headteacher is entitled to expect reasonable levels of staff attendance to run the school and to consider taking action in cases where the pattern of absence gives rise to concern. This would normally be when it reaches 9 working days sickness absence in a 12-month period.(This 9-day trigger will be applied pro rata for part time staff).

1.4 **Continuous Absence:** This requires an approach based on regular reviews and updating of the available medical information and information from the employee. Absence which continues beyond three months would normally be the trigger for undertaking a health assessment of the situation including the employee’s future capability to undertake their role.

1.5 Guidance notes are attached giving information/advice to support the decision-making process and covers the following topics:

1. Target setting
2. Medical advice: referral to Occupational Health and Equalities Act considerations
3. Considering Termination of Service: factors to consider

**2. Stage One: Intermittent Short Term Absence**

2.1 An employee who has a pattern of sickness absence which gives rise to concern or who has had 9 working days sickness absence in a 12-month rolling period should have their attendance record reviewed (a pro-rata equivalent trigger applies for part time employees).

2.2 If, taking account of the circumstances of the case the Headteacher decides they have sufficient information and that the absence is not a cause for concern a note will be sent to the employee confirming this and that there is no need for formal action at this time.

2.3 However, if the Headteacher is concerned about the level/reasons for sickness absence a meeting will be arranged with the employee as soon as possible. This will be a formal Stage 1 sickness review meeting under the managing sickness absence policy. There is a right of trade union or work colleague representation at the meeting.

2.4 The purpose of the meeting will be for the Headteacher to:

1. review the employee’s sickness record
2. consider any relevant medical information which is available (and to obtain further medical information if deemed necessary).
3. identify the impact of the absence on the school and on work colleagues
4. discuss the reasons for absence and any information the employee has to offer (e.g., personal, domestic, welfare issues, that the absence was connected to an industrial injury).
5. consider the employee’s explanation
6. consider any support that can be offered

2.5 If the Headteacher decides that it is not necessary at this time to set targets for improvement this will be confirmed in writing to the employee within 5 working days.

2.6 If the Headteacher decides the level of sickness absence is unsatisfactory they will write giving reasons and advise the employee of the following:

* that there is a need to improve
* that a time scale is identified during which absence levels must reduce
* the consequences of failure to reduce the level of sickness absence, i.e., that a further monitoring period will be set at Stage 2 of the procedure

2.7 The target for improvement will be that attendance should improve and there should be no more than 5 working days sickness absence in the coming 12-week monitoring period.

2.8 There is a right of appeal against the decision to set targets at this stage:

1. Appeals must be lodged with the Governing Body, via the School Business Manager, within 10 working days of receipt of the decision.
2. The reason for appealing must be explained in writing and must relate to one of the following grounds:

* unreasonable delay in calling the meeting to review the sickness record
* unreasonable decision in the light of relevant medical information
* unreasonable decision in the light of personal information provided by the employee

2.9 At the end of the timescale for improvement (the ‘monitoring period’) the Headteacher will review the level of sickness absence. If it is satisfactory to the Headteacher, the employee will be advised in writing accordingly and reminded of the need to sustain the level of improvement. The employee will be informed that if,during the 12 months following the monitoring period the employee, has a further 9 working days sickness absence, (or pro rata target if applicable) their attendance record will be reviewed at stage 2 of this procedure.

Where the employee is absent on a continuous basis for a period in excess of 9 working days, the Headteacher will review the reasons for absence. If it appears likely that there will be a period of long-term continuous sickness, the Headteacher should review and continue to regularly review the reasons for the sickness absence, all relevant factors including the likely timescale for recovery and a return to work. (See Continuous Long-term Absence).

**3. Stage Two**

3.1 This stage is reached in the following circumstances:

either:

* the employee’s level of sickness absence has exceeded the improvement target set during or at the end of the stage one monitoring period.

or

* the initial improvement achieved at the end of the monitoring period has not been sustained over the following 12 months.

3.2 A further meeting will be arranged by the Headteacher, giving 5 days notice, to review the sickness record. This will be a Formal Stage 2 Sickness Review meeting. Rights in relation to trade union/work colleague representation are as set out in Stage 1.

3.3 If the Headteacher considers the level of sickness absence to be unsatisfactory in the light of the information available:

* a further monitoring period will be set (normally 12 weeks)
* targets for improved attendance will be set (see Guidance Note 1 ).
* the employee will be warned that failure to reduce the level of sickness absence will result in moving to a review at Stage 3 of this procedure where a decision to dismiss could be made.

3.4 There is a right of appeal against the decision to set targets at this stage. Employees must write to the Governing Body within 10 working days giving reasons for their appeal. Trade Union/work colleague representation is available at the appeal hearing.

* 3.5 If the level of sickness absence is satisfactory at the end of the Stage 2 monitoring period the employee will be advised in writing accordingly and reminded of the need to sustain the level of improvement during the 12 months following the monitoring period. The employee will be informed that if they have a further 9 working days sickness absence, in the coming 12 months their attendance record will be reviewed at Stage 3 of this procedure where a decision to dismiss could be made.

**4. Stage Three**

4.1 This stage is reached:

* Where the employee’s sickness absence level fails to improve to meet the targets set during the monitoring period, at Stage 2.

or

* during the 12 months following the monitoring period at Stage 2 the employee has a further 9 working days sickness absence.

In these circumstances the employee should be referred to the School’s occupational health provider for a report to be provided to the Headteacher (see Guidance Note 2 ).

4.2 In light of the medical report from Occupational Health, a decision will be made as to how to proceed. The options include:

* no further action at this time
* consideration of any recommendations the occupational health provider may make in relation to redeployment or ill health retirement. (See below).
* extending the timescale for monitoring an improvement in attendance
* referral to the Governing Body for consideration as to whether the employee should be dismissed from employment at the school

4.3 If the Headteacher decides on the basis of all the available information and impact on the school that dismissal should be considered the case will be referred to the Governing Body and a formal hearing will be arranged with a panel of 3 school governors. The Headteacher and the employee will attend the hearing to present their respective cases and available information to the panel.

**5. Continuous Long Term Absence**

5.1 The potential for long-term sickness absence may well be apparent at Stage 1 when the case is reviewed due to 9 days continuous sickness absence having occurred.

5.2 The case of an employee on continuous long-term sickness absence should be kept under regular review. It is the intention that long-term sickness should be approached in a sensitive yet practical way. It is recognised that an employee on certificated long-term sick leave is unable to attend for work to carry out their normal duties. However, it is important for the employee to maintain reasonable contact with the Headteacher as appropriate to the circumstances of the case. Although not fit for work an employee may be asked to attend review meetings with the Headteacher from time to time to discuss the absence, their progress towards recovery and a likely timescale for a return to work. At an appropriate stage, but certainly after three months, a Headteacher shall, in normal circumstances, make an assessment of the position based on the available information including:

* the nature of the illness and any medical information available.
* the likely length of the continuing absence.
* The impact on the school, whether the school can continue to cope with the employee’s absence and, if so, for how much longer
* any other relevant circumstances

5.3 In order to come to a reasonable decision on the merits of the case a Headteacher will require information about the medical prognosis. This will require an assessment by the school’s occupational health provider and may include the employee being required to attend an appointment with the occupational health doctor.

5.4 On receipt of information from the medical assessment, the case will be reviewed to take account of: the medical information, the ongoing impact on the school, the children and colleagues and other factors as set out above. The employee (and trade union representative/work colleague) will be invited to meet with the Headteacher to discuss the situation and to explore any relevant options that may be available e.g.:

1. a recommendation from Occupational Health in relation to any adjustments that are deemed reasonable to support a return to work and which are viable within the workplace i.e. adjustment to job duties/hours/etc., or other support on return to work
2. a recommendation from Occupational Health in relation to the employee’s ability to carry out the role for which they are employed (noting that with regard to redeployment that neither individual schools nor the Council has the power to redeploy staff from one school to another)

It is important at this stage that the employee understands the serious concern which exists about the length of sickness absence and the impact on the school and is given reasonable opportunity to tell their Headteacher of any factors or personal circumstances which they would like taken into account in the overall assessment. (Alternatively, the employee can provide written information if they prefer). Any representations submitted from the trade union/work colleague representative should also be considered.

5.5 If the Headteacher decides, on reviewing all the information that it is not possible to wait any longer for the employee to return, a letter will be sent advising the employee that termination of service is being considered. The employee will be advised that they can make further representations in person, or in writing ,to a formal hearing with a panel of 3 governors of the Governing Body (staffing committee) which will convene to consider the case. The panel will consider the available information, the employee case and the impact on the school to decide if the employee should be dismissed. The procedure for setting up a formal governor committee hearing is set out in Guidance Note.

**6. Ill-Health Retirement**

6.1 The employee and the school should arrange for an assessment by occupational health to look at ways to help an employee manage their illness. This should include exploring options that could help an employee to remain in or return to work, for example through action to reduce their working hours or moving to a role of lesser responsibility. Ill-health retirement is a significant move and should only be contemplated once it is clear that other options will not work for an employee. In cases of chronic ill health *I* permanent incapability to undertake the duties of the post, a recommendation may be made by the occupational health doctor that the employee be retired on medical grounds.

For support staff a recommendation for ill health retirement is made in accordance with the criteria set by the Local Government Pension Scheme for Local Government Services.

Separate provisions apply for schoolteachers as the relevant pension scheme is Teachers’ Pensions. Teachers should refer to the latest ill health retirement guide on the Teachers’ Pensions web site for further information.

6.2 Where the employee is opposed to the recommendation from occupational health to retire on ill health grounds, they must be given the opportunity to appeal and make representations to a panel of 3 school governors (Staffing Committee) of the Governing Body.

6.3 Where there is a clear conflict of medical opinion between that of the occupational health doctor and the employee’s own doctor, an independent medical opinion will be sought.

**7. Ill-Health Redeployment and schools**

7.1 If the Occupational Health doctor recommends that the employee is not fit to carry out the role for which they are employed occupational health may make a recommendation as to the type of alternative duties that the employee may be fit to undertake. Schools are not obliged to create an alternative new post for an employee in such circumstances. In addition, it should be noted that schools have no power to redeploy staff from one school to another. The Headteacher should liaise with the Council to establish how an employee in such circumstances can be made aware of how to access information about job vacancies across the Council that are being advertised for which the employee may apply.

**8. Termination of Service**

8.1 If following assessment the occupational health doctor does not recommend retirement on ill health grounds this does not preclude a decision being taken by the school governing body to dismiss from employment at the school as the decision to dismiss from employment is a managerial one. If there is a decision to dismiss immediate pension benefits will not be triggered.

8.2 Where there is a clear conflict of medical opinion between that of the Occupational Health doctor and the employee’s own doctor, an independent medical opinion will be sought.

**9. Right of Appeal**

9.1 This is to a Staffing Committee of three school governors of the Governing Body.

##### Guidance Notes (1, 2 and 3) on Managing Sickness Absence

GUIDANCE NOTE 1

Setting targets for an improvement in attendance and reduction of sickness absence

To enable the effective running of the school levels of employee attendance will be monitored. The normal trigger for a review of an employee’s attendance record will be when an employee has 9 working days absence. (Pro rata trigger for part time staff).

However, if there are concerns about patterns of absence of less than 9 working days i.e. sickness regularly occurring on Mondays and Fridays or adjacent to the last or first day of a school term) a Headteacher may meet with an employee to discuss this.

1. To take formal action about sickness absence below 9 working days there need to be clear reasons for the concern to avoid complaints of discrimination.

2. Headteachers must review the position when there has been 9 working days sickness absence in a 12 month period and, where there is cause for concern, meet with the employee as soon as possible. Intermittent sickness absence may be due to a variety of minor, unlinked illnesses, or it may be due to one (or more) underlying medical cause. However, all absence, whatever the reason, has an impact and attendance will be reviewed .  
  
It is important that an employee’s personal circumstances and record are taken into account when considering appropriate action. When reviewing an employee’s attendance record the issues which should be considered include:

* how long has the employee worked at the school?
* does the employee have a good work/sickness record?
* the employee’s length of service, the demands of the post and the importance of the position to the school
* the medical information available e.g., medical certificate(s), advice from occupational health.
* Does the employee have a disability as defined by the Equality Act 2010……….have there been problems of sickness in the workplace generally?
* have work problems caused or exacerbated sickness?
* is the employee suffering from personal/domestic problems?
* is the employee suffering from an industrial injury?

Assessment of this information will enable a Headteacher to decide whether or not to set a target for reduction in the sickness level, and what the target should be.

3. The existence of an underlying medical condition, while accepted as the reason for absence, will not mean that it is “set aside”. All absences will be counted and the total picture of an employee’s level of sickness absence considered, together with the factors set out above

4.. The target for reduction in the level of sickness absence will normally be that no more than …. days sickness absence should occur during the monitoring period of 12 weeks( normally a school term).

5. Decisions should be confirmed in writing within five working days.

Where an improvement target is set there is a right of appeal to a staffing panel of the school governors.

Long-term/Continuous absence

Where an employee is likely to be continuously absent for a prolonged period the Headteacher should monitor the position by regularly reviewing and (if necessary) updating the medical information. Absence at 3 months is the trigger for a review of the available information and assessment of the impact on the school and the employee’s employment position. A balance needs to be struck between “keeping in touch” with the absent employee in a supportive manner and putting pressure on them by excessive or inappropriate communications.

GUIDANCE NOTE 2

**Medical Advice: Referral to the school’s occupational health provider**

It is likely that there will have been referrals to the school’s Occupational Health provider during the period of the employee’s absence to obtain medical advice to inform ongoing reviews by the Headteacher.

In preparation for any formal hearing with school governors in which an employee is at risk of dismissal it is essential that up to date medical information is available to the panel of governors. Occupational Health reports obtained by the school during the absence management should form part of the Headteacher’s case papers.

1. Intermittent ( Short term) absence  
  
Information should be sought from the occupational health doctor about whether there is an underlying medical cause and what the future prognosis is in relation to the employee’s ability to do his/her job.

2. Long term (Continuous) absence  
  
Medical referral is of major importance and needed in all cases of long term absence. This should occur at the earliest practical opportunity in order to gain a speedy and useful response. The following questions can be asked in a medical referral:

* what is the medical assessment of the employee’s current health and the progress of their recovery?
* what is the expected date of return?
* will the employee have a residual disability?
* if so, will this be permanent or temporary. If temporary, for how long?
* will the employee be able to give regular and efficient service?
* what duties will the employee be able to undertake?

3. Access to Medical Reports Act 1988  
  
The Act ensures that patients are treated confidentially in dealings regarding their medical records. If the occupational health doctor needs to obtain medical information from the employee’s GP, their permission will be sought. If the employee refuses to co-operate in allowing information to be obtained from their GP, he/she should be advised that there is a need to obtain information regarding their health to inform the management of their sickness and that without this their future employment will be assessed on the information available.

4. The Equality Act 2010  
  
The act defines an employee’s medical condition as a disability when it is a physical or mental impairment which has a substantial and long term adverse effect on his/her ability to carry out normal day-to-day activities, i.e.(it has lasted at least 12 months, or is likely to do so).

The protection also applies if the medical condition is a progressive or terminal illness, i.e., with the result that the employee is unlikely to survive 12 months. It also applies where the employee has a history of disability.  
  
The act makes it illegal to dismiss such a disabled employee unless such action can be justified. To establish justification it must be demonstrated that the illness, absence or functional effects of the disability:

1. is material to the job, work and the particular situation - this means the situation must be fully examined. It would be unacceptable to base the assessment on general impressions.

2. has a substantial effect - it must make a sufficient impact on the job and the work environment, because minor difficulties could not be justified.

Medical advice: will be necessary on what the employee’s health problems are and the likely extent and timing of any recovery. The medical adviser should be asked to consider the extent to which the employee has difficulty operating equipment or carrying out any duties affected by their illness.  
  
Requirement to make reasonable adjustments: under the Equality Act employers must make reasonable adjustments to remove physical barriers and change working conditions for disabled employees if necessary. In relation to employment, managers should consult with the employee and should consider the following:

(a) what can be done to alleviate the difficulties being experienced by the disabled employee.

(b) can their duties or working arrangements or hours of work be adjusted.

(c) would additional or modified equipment help overcome the problem.

(d) how much would the adjustments to be made disrupt existing working arrangements.

(e) would time off for rehabilitation, employment assessment or treatment arise.

The overall question, in the light of these considerations, is whether it is reasonable to introduce adjustments to make it possible for a disabled employee to continue to work.

GUIDANCE NOTE: 3

**Termination of Service – factors to consider**

1. Termination of Service: Factors to consider**:**

The Employment Appeal Tribunal has set out the following factors which should be considered by employers before a decision to dismiss is taken:

(1) the nature of the illness

(2) the likelihood of recurrence, or some other illness arising

(3) the length of the various absences and the intervals of good health between them

(4) the need of the employer for the work to be done by the employee

(5) the impact of the absences on other employees

(6) implementation of the correct procedure

(7) the importance of a personal assessment in the ultimate

decision

(8) the extent to which the employee has been made fully aware of the school’s situation and when the point of “no return” would be reached.

In relation to disabled employees: see details on the Equality Act in guidance note 2.

2. Medical Advice in relation to dismissal

The decision to dismiss is not a medical one but a managerial one based, among other things, on medical opinion(s).

BUT:

* While the absence of a medical diagnosis or prognosis does not preclude an employer taking action, to dismiss an employee without a medical referral to obtain relevant medical information could be viewed as unfair by an employment tribunal.
* Managers should not make medical judgements.
* Managers should not ignore medical opinion or draw conclusions that are at odds with the medical advice.
* In the case of conflicting medical opinions between the occupational health doctor and the employee’s own doctor, a further medical independent opinion should be sought from a specialist.

3. Continuous Absence  
  
An employer can fairly dismiss an employee due to long term absence, based on capability grounds and incapacity to perform the job. It is necessary to look at the whole picture: every case must depend on its own facts. Factors to consider are set out in 5.2 of the procedure.

4. Intermittent Absence  
  
Where one (or more) underlying medical cause(s) is identified, management is entitled to look at the level of sickness absence as a whole and decide that it is unsustainable in relation to its impact on service provision and the workload of colleagues. Factors 1 to 8 (above) offer guidance.

5. Alternative options to dismissal

These may include:

* establishing a further timescale for improvement
* consideration of alternative employment (if available) within the school
* referral to the school’s occupational health provider for consideration of ill health retirement or potential redeployment if this has not been considered previously.

Headteachers – Management of Sickness Absence

1. Introduction

1.2 The general principles set out in the sickness absence monitoring procedure apply equally to Headteachers.

1.3 Action in relation to concern about sickness absence will be handled by the Chair of Governors. The Director of Schools at the Local Authority will offer support if requested to do so.

2. Process

2.1 Where the sickness absence of a Headteacher triggers consideration under the procedure, the Director of Schools will inform the Chair of Governors

2.2 The Chair of Governors will review the absence record, including any information as to the reasons for absence. If the absence record is viewed as a matter of concern the Chair of Governors should contact the Director of Schools to discuss the appropriate course of action. This could include the Chair investigating further or deciding no action is necessary at this time.

2.3 If the Chair of Governors wishes to take formal action within the parameters of the procedure the Chair, will undertake the functions of the line manager in relation to setting targets, monitoring attendance etc., working through the stages of the procedure. Rights of appeal to Governing Body in relation to target setting are as set out in paragraphs 2.6 and 3.4.

3. Unsatisfactory sickness record

3.1 Where there has been a failure to meet targets set for attendance, or a lengthy period of continuous absence has occurred, the Chair of Governors will alert the Director of Schools.

* 1. If the Chair of Governors considers that action is necessary the Chair of Governors will seek advice from the Director of Schools and the school’s HR provider on possible options and whether further medical information should be sought
  2. The Headteacher will be advised in writing that serious concern exists in relation to their attendance and they will be invited to discuss the situation with the Chair of Governors (as set out in paragraph 5.4).

4. Termination of service

4.1 A medical recommendation in relation to ill-health retirement will be followed as appropriate.

The Headteacher should seek advice directly from Teachers’ Pensions if they wish to make an application to Teachers’ Pensions for ill health retirement

4.2 In the absence of a medical recommendation to retire, any decision in relation to dismissal must be taken by a staffing committee of the Governing Body The responsibility for presenting the case would be with the Chair of Governors.

**Appendix 1**

**Process for holding a formal capability hearing with a staffing committee (panel) of three school governors**

1. Where the Headteacher considers it is appropriate to refer a capability case to the school governors for consideration a staffing committee will be convened. The staffing committee will consist of a panel of three school governors. No staff governor will sit on a panel.
2. The school will arrange for an HR Adviser to attend the hearing to advise the panel on procedural matters. The school will arrange for the meeting to be minuted by the school’s clerk to governors.
3. The school will arrange for a formal invitation letter and set of documents for the capability hearing to be provided to the employee, their nominated trade union representative or work colleague, the panel members, the panel’s HR procedural adviser and the clerk 5 working days before the hearing.
4. The school will make arrangements for the capability hearing to be held at an appropriate venue at the school or a suitable alternative building.
5. The hearing may be postponed by the chair of the panel at their discretion, in consultation with the HR Adviser, to accommodate a request for postponement. Where a reasonable explanation for not attending is provided by the employee one postponement may be agreed by the chair to enable an employee’s nominated representative to attend. Where an employee fails to attend and provides no reasonable explanation for non-attendance the hearing will proceed in the employee’s absence.

**Agenda for the formal capability hearing**

The panel will convene with the HR procedural adviser and the clerk (normally 30 minutes prior to the start of the hearing) to discuss procedure.

The school’s representative (normally the Headteacher) and their HR adviser, the employee and their nominated trade union representative or work colleague are then invited to join the formal hearing.

The Chair of the staffing committee will be responsible for the proper conduct of the hearing. The panel will follow the agenda set out below as best practice for a fair hearing.

**Agenda**

**INTRODUCTIONS –**

1. **MANAGEMENT CASE**
   1. The Headteacher (or delegated representative) will present the school’s management case.
   2. The Employee, and their representative will be invited to ask any questions
   3. The panel may ask any questions
2. **EMPLOYEE’S CASE**
   1. The Employee and/or their representative will present their case
   2. The Headteacher (or delegated representative) is invited to ask questions.
   3. The panel may ask any questions
3. **SUMMING UP**
   1. The Headteacher (or delegated representative will sum up the school’s management case
   2. The Employee and/or representative will sum up the employee case

*The Parties (other than the HR procedural adviser and the clerk)*

*will be requested to leave the meeting while the panel adjourn to consider*

*the information presented).*

1. **DECISION**
   1. The panel will consider its decision and where practicable will recall both parties to inform them of the decision.
   2. Where it is not practicable the employee and the school’s representative will not be required to wait while the panel deliberate but will be informed of the panel’s decision as soon as possible. This will normally be later that day or the following morning.
   3. The panel’s decision will be confirmed in writing within 5 working days.
   4. Where a panel decides to terminate employment on grounds of capability the employee will receive formal notice or pay in lieu of notice in line with their contract of employment and will be informed of the right of appeal. Any appeal would be to a further panel of three school governors.